

VIA ECF

Hon. Lorna G. Schofield
United States District Court
Southern District of New York
Attn: Hon. Lorna G. Schofield, U.S.D.J.
500 Pearl Street
New York, NY 10007

Re: *Edelman v. NYU Langone Health System, et al.*,
Case No. 1:21-cv-00502 (LGS) (GWG)

Dear Judge Schofield:

The parties write jointly pursuant to this Second Amended Civil Case Management Plan and Scheduling Order (Doc. No. 54) (the “Scheduling Order”) requiring the submission of a joint status letter in accordance with Rule IV(A)(2) of this Court’s Individual Rules and Procedures for Civil Cases (the “Individual Rules”).

(a) What discovery has taken place, specifically

- (1) *What discovery requests have been propounded, who propounded each request and on what date,*

The parties have each served upon each other initial discovery pursuant to the Pilot Project Regarding Initial Discovery Protocols for Employment Cases Alleging Adverse Action (the “Protocols”). On May 17, 2021, Defendants served Defendants’ First Request to Plaintiff for the Production of Documents, and Plaintiff served her First Set of Interrogatories and First Request for the Production of Documents on July 2, 2021.

- (2) *What responses were made, who made each response and on what date,*

Both parties served responses and document production pursuant to the Protocols. Plaintiff served her responses to Defendants’ discovery demands on July 2, 2021. Defendants responded to Plaintiff’s discovery demands on August 13, 2021.

- (3) *The volume of documents produced, who produced the documents and when;*

In response to the Protocols, Plaintiff produced 386 pages of documents on or about April 23, 2021, and Defendants produced 225 pages of documents from April 21, 2021 through May 14, 2021. Plaintiff produced 205 pages of documents on September 19, 2021, and 8 pages of documents on September 22, 2021. Defendants produced 947 pages of documents on a rolling basis from April 2021 through August 2021, and 143 pages of documents on a rolling basis in September 2021, totaling a production from Defendants of 1090 pages of documents.

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(b) The procedural history of the case to date, specifically

(1) What pleadings have been filed, who filed each pleading and on what date,

Plaintiff filed her Complaint on January 20, 2021, and Defendants filed their Answer on March 22, 2021.

(2) What motions, if any, have been filed, who filed each motion and on what date each motion was filed,

Defendants filed a discovery motion on August 18, 2021, regarding the Stipulated Confidentiality Order.

(3) What motions, if any, are currently pending and, for each pending motion, the date it was or is scheduled to be fully briefed; and

No motions are currently pending. However, counsel for Plaintiff and Defendants have met and conferred regarding Defendants' request to continue Plaintiff's deposition. In the coming week, Defendants will be filing a discovery letter motion seeking leave to continue Plaintiff's deposition for an additional seven hours.

(c) The parties' plans to ensure that they meet the Court ordered discovery deadlines.

The parties largely have cooperated in discovery thus far. The parties expect to meet the Court ordered discovery completion deadline. However, the Court's interim deadlines to complete certain depositions need to be extended due to scheduling difficulties.

(i) Update on Depositions

Depositions taken:

- Plaintiff's deposition, by Defendants, approximately 6½ hours, September 20, 2021
- Kathleen Pacina (NYU), deposition by Plaintiff, completed September 24, 2021
- Defendant, Andrew Rubin, by Plaintiff, approximately 5½ hours, September 27, 2021 (the parties stipulated to continue the Rubin deposition for the remainder of the 7 hour limit)
- Joseph Antonik, by Plaintiff, completed October 7, 2021

Depositions Adjourned:

Tentatively scheduled deposition of Defendant, David Kaplan, for October 12, 2021, has been adjourned because of Plaintiff's counsel's unavailability.

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Depositions being Scheduled:

Defendant David Kaplan, by Plaintiff.
Defendant Andrew Porges, M.D., by Plaintiff
Defendant Joshua Swirnow, by Plaintiff
Kavini Mehta, M.D., by Plaintiff
Joseph Taverni, to be subpoenaed by Plaintiff
Miriam Ruiz, to be subpoenaed by Plaintiff
Defendant Andrew Rubin, by Plaintiff (the parties stipulated to continue the Rubin deposition for the remainder of the 7 hour limit)

(ii) Expert Discovery

Defendants:

Defendants' document request dated May 17, 2021, specifically requested “[a]ll documents concerning any treatment of Plaintiff or consultation with any health care provider, physician, psychologist, psychiatrist, therapist or counselor.” Plaintiff failed to produce any documents in response to this request. However, based on Plaintiff's deposition testimony, Defendants renewed their request for responsive information and documents on September 28, 2021. To date, Plaintiff has not produced responsive information or documents, but Plaintiff's counsel has represented that the same will be produced early next week.

Without such information, Defendants cannot obtain records necessary to determine whether a medical expert or even a Rule 35 examination of Plaintiff is necessary.

The parties thank this Court for its time, attention, and consideration in this case.

Dated: Lake Success, New York
October 8, 2021

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October 8, 2021

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